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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,408	03/12/2001	Mathew F. Ogle	1416.20US01	1108

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EXAMINER

NAFF, DAVID M

ART UNIT PAPER NUMBER

1651

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/804,408

Applicant(s)

OGLE ET AL.

Examiner

David M. Naff

Art Unit

1651

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

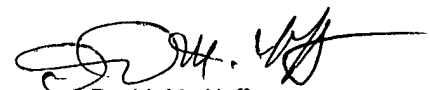
Claim(s) allowed: None.

Claim(s) objected to: _____.

Claim(s) rejected: 1-9, 11-28 & 34-43.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


David M. Naff
Primary Examiner
Art Unit: 1651

Continuation of 3. Applicants' reply has overcome the following rejection(s): 112, second paragraph, rejection of claims 1-9, 11-28 and 34-43.

Continuation of 5. does NOT place the application in condition for allowance because: the arguments traversing the 103 rejection of claims 1-9, 11-28 and 34-43 are unpersuasive. An article by John A. Kiernan was not found attached to the amendment as stated in the amendment. In any event, even if the article discloses self-polymerization of glutaraldehyde as asserted, Ogle et al disclose that the concentration of glutaraldehyde can be lowered to form a higher quantity of monomers and small oligomers (col 6, lines 26-29). Dilution producing more monomers and small oligomers results from dilution affecting the equilibrium between monomers and oligomers in polymerizing that results in oligomers. If polymerizing resulted from covalent bonding due to covalent reacting between aldehyde groups as asserted by applicants, concentration will not affect whether monomers or oligomers are formed since in a reaction that involves covalent bonding an equilibrium between reacted and non-reacted components does not exist. Additionally, the exclusion limit of the membrane used by Ogle et al to obtain glutaraldehyde of a desired molecular weight can be as low as 100 daltons (col 5, line 61) which will result in a high proportion of monomers since the molecular weight of glutaraldehyde is about 90. Furthermore Ogle et al can use a concentration of glutaraldehyde of 0.1 % (col 6, line 67) which will result in a high proportion of monomers, and result in less oligomers formed than when using 0.5 % glutaraldehyde in Example 1 in the present specification. The specification discloses nothing that will prevent self-polymerizing of glutaraldehyde. Applicants argue that glutaraldehyde cannot form a bridge. However, glutaraldehyde can clearly form a bridge when two amine groups are present. See Fig. 2 of Yang et al.

On further review, it is found that claim 42 was amended as stated by applicants.